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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,623	01/28/2004	Thomas R. Hetzel	249.305	3753
28785	7590	03/02/2006	EXAMINER	
JOHN R LEY, LCC 5299 DTC BLVD, SUITE 610 GREENWOOD VILLAGE, CO 80111			SAFAVI, MICHAEL	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 03/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/766,623	HETZEL ET AL.	
	Examiner	Art Unit	
	M. Safavi	3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on April 25, 2005 & November 21, 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) 42-53 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-41 is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☒ Claim(s) 8-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date <u>3/04; 7/04; 12/04</u></p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____</p> |
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Information Disclosure Statement

The information disclosure statement filed December 27, 2004 fails to fully comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because Applicant has not provided a date of publication for the paper listed as International Search Report under 'Other Documents'. It has been placed in the application file, but the information referred to therein, with respect to the paper listed as International Search report under 'Other Documents', has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Election/Restrictions

Applicant's election with traverse of the invention of Group I along with the species of Fig. 1 and the species of Fig. 24 in the reply filed on April 25, 2005 is acknowledged. The traversal is on the grounds that the "product as claimed requires a support contour, including relief areas at locations adjacent to skin covering at least...a pelvic area". This is not found persuasive because language to what the support is intended to support does not carry weight in a claim to the product per se. As such, the claimed product can be used to support any portion of the body.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,503,649 to Johnson.

Navach et al. discloses, Figs. 1, 2, and 6-8, a support contour 'C' comprising "relief areas" and "support areas". The "relief areas" are situated at lateral rear portions of the cushion while the "support areas" are situated at lateral portions of the cushion adjacent the "relief areas". A support member attached to a rear corner is at 83, (**claim 1**). Connector member 84/87 is connected to the support member and extends along one of the longitudinal sides or the rear side, which intersect at the rear corner, (**claim 2**). Base plate connected to a longitudinal extending side is at 86 with one end of the connector member 84/87 connected to the support member 83 and the other end of the connector member is connected to the base plate 86, (**claim 3**). The connector member 84/87 can be adjusted, (as by openings 87), to move the support member 83 in a direction substantially parallel to one of the longitudinal or

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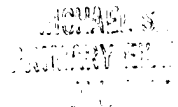
transverse sides along which the connector member extends, (**claim 4**). An adjustment in length of the connector member 84/87 changes the shape of the support contour adjacent to the rear corner where the support member 83 is located while adjustment to shorten length of the connector member 84/87 moves the support areas 28, 29 relatively more forward within the center cavity, (**claims 5 and 6**). Actually, for claims 4, 5, and 6, connector member can be 83 with the support member at 86. As such, an adjustment in length of the connector member 83 changes the shape of the support contour adjacent to the rear corner where the support member 86 is located while adjustment to shorten length of the connector member 83 moves the support areas 28, 29 relatively more forward within the center cavity, (**claims 5 and 6**) and the connector member 83 can be adjusted, (as by openings 87), to move the support member 86 in a direction substantially parallel to one of the longitudinal or transverse sides along which the connector member extends, (**claim 4**). The connector member 83 comprises a strap having first and second portions with the first portion of the strap connected to the support member 86, and the second portion of the strap connected to the one of the longitudinally or transversely extending sides along which the strap extends, (i.e., 83 is connected to 84 along transversely extending side while other end of 83 is connected to 86 via 84/87), (**claim 7**).

Claims 8-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Claims 20-41 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.



M. Safavi
January 30, 2006